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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,346	03/12/2004	Eric H. Mansfield	1796031US2AP	9910

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EXAMINER

NEWTON, JARED W

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/800,346	Applicant(s) MANSFIELD ET AL.	
	Examiner Jared W. Newton	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 11-14, 18-31 and 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9, 10, 15-17, 32-38 and 40 is/are rejected.
- 7) ☒ Claim(s) 7, 8 and 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03/12/2007, 01/04/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 11-14, 18-31, and 39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no presently allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 15, 2006.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following must be shown or the feature(s) canceled from the claim(s):

- The opening having a pair of semicircular portions connected by a straight portion, as described in Claim 4, Lines 2-3;
- The rod having an oval shape as implied by Claims 33 and 34, which state that the rod and opening have matching cross-sectional shapes that are oval.

No new matter should be entered.

The drawings are further objected to because Figure 4 is described as showing a “unlocked” position of the lock; however, Figure 5 shows the same lock orientation, and is described as a “locked” position.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

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replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

- Figure 3 is referred to as a description of the "second lock member", wherein Figure 3 actually shows the first lock member. (See Page 3, Line 12).

Appropriate correction is required.

Claim Objections

Claim 32 is objected to as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, the recitation, "the locked position of the lock only allowing the base assembly to slide along the rod from the unlocked position toward the locked position" (see Claim 32, Lines 14-15) is unclear. The above recitation seeks to define the locked position by describing its operation in terms of an opposite (unlocked) position. It is unclear how the locked position itself allows the base assembly to slide to an unlocked position. Clarification is respectfully requested.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 16 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In particular, claim 16 sets forth the limitation, "wherein the locked position of the lock prevents the base assembly from moving in a direction from the inner end of the rod toward the outer end of the rod" (see Claim 16, Lines 1-3). The specification does

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not teach, nor do the drawings show how the locked position of the lock prevents the base assembly from moving in the described direction. The specification recites, "Body 46 engages arms 68 to force lock member 50 into the locked position when body 46 is pulled in a direction from the inner end of rod 28 toward the outer end of rod 28" (see Page 9, Lines 6-8); the specification continues, "Opening 70 is sized to frictionally engage upper rod 28 when lock 44 is in the locked position to prevent base assembly 20 from moving in a direction from the inner end of rod 28 toward the outer end of rod 28" (see Page 9, Lines 15-18). The above recitations do not detail the operation of the locking device so as to allow one of ordinary skill in the art to make, use, or understand said locking device. For example, one of ordinary skill in the art would not know how to construct said arms so as to enable them to force said lock into a locking position. Nor would one know how to construct the device so as to allow frictional force to overcome a pulling force, in order to inhibit the movement of the base assembly from the inner end of the rod to the outer end of the rod.

In regard to claim 17, the specification does not detail how the device enables the base assembly to move in a direction from the outer end of the rod toward the inner end of the rod when the lock is in the locked position.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Insomuch as understood in light of the 35 USC 112 rejections above, Claims 1, 2, 5, 6, 10, 15-17, 32, 35, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,474,300 to Entis.

In regard to claims 1 and 32, Entis discloses a display device comprising: a rod 10 having an inner end and an outer end; the inner end of the rod disposed near a support structure 2 (see FIG. 1); a base assembly 30 connected to the rod and slidable between locked and unlocked positions; the lock position of the base assembly adapted to prevent the rod from being removed from the support structure, by forming a closed rod, and preventing removal of the rod 10 through the loop members shown in Figure 1 that retain the rod to the support structure; said base assembly having a body; a lock 32 movable between locked (see FIG. 3) and unlocked (see FIG. 2) positions; the lock having an opening slot disposed at the bottom of tab 46; a portion of the rod 14 being disposed in the opening of the lock; and the lock engaging the rod when the lock is in the locking position to lock the base assembly to the rod such that the rod cannot be removed from the support structure (see FIG. 2—the locking position is shown in phantom). Entis recites, "Bend 36 of leaf spring 32 serves as a locking element and is urged downwardly, by the inherent resiliency of the leaf spring 32, through slot 38 and into engagement with the front end of the upper bracket arm 18, when the slide 30 is in its closed position against the front leg 14 [of rod 10], as shown in FIG. 3 and in broken lines in FIG. 2." (See Column 2, Lines 58-64).

In regard to claim 2, said opening is non-circular (see FIG. 2).

In regard to claims 5 and 35, said lock pivots between locked and unlocked positions, as leaf spring 32 deflects (see FIG. 2).

In regard to claim 6, said lock pivots relative to said rod, as leaf spring pivots away from and towards said rod.

In regard to claim 10, Entis teaches a Y-shaped hook 20 adapted to connect the rod 10 to the support structure 2 (see FIG. 3).

In regard to claims 15 and 40, Entis further shows said rod 10 as free of notches (see FIGS. 1-9).

In regard to claim 16, Entis shows that when said sliding base member 30 is in a locked position, it is incapable of moving from said inner end of the rod toward the outer end of the rod (see FIG. 1, and FIG. 2 (in phantom)).

In regard to claim 17, Entis shows said base member, when in the locked position, as capable of moving from the outer end of said rod 10 toward the inner end of said rod (see FIG. 2).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for

purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Insomuch as understood in light of the 35 USC 112 rejections above, Claims 1, 5, 9, 10, 16, 17, 32, 33, and 36-38 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application Publication No. 2004/0026344 to Sedon et al.

In regard to claims 1 and 32, Sedon et al. disclose a display hook comprising: a rod assembly 108 having an inner end and an outer end; the inner end of the rod disposed near a support structure 102 (see FIG. 1); a base assembly 106 connected to the rod and slidable between locked and unlocked positions; the lock position of the base assembly adapted to prevent the rod from being removed from the support structure; said base assembly having a body; a lock assembly 159 movable between locked and unlocked positions; the lock assembly 159 having an opening 124; a portion of the rod 108 being disposed in the opening of the lock; and the lock engaging the rod when the lock is in the locking position to lock the base assembly to the rod such that the rod cannot be removed from the support structure (see FIG. 3).

In regard to claims 5 and 35, Sedon et al. teach said lock 159 having a portion 160 that pivots between locked and unlocked positions (see FIG. 3).

In regard to claims 6, Sedon et al. show said lock portion 160 pivoting relative to said rod 108 (see FIG. 3).

In regard to claims 9, 37, and 38, Sedon et al. disclose said lock 159 being magnetically actuatable.

In regard to claim 10, Sedon et al. disclose a hook 246 at the outer end of said rod (see FIG. 23).

In regard to claim 16, Sedon et al. disclose the locked position of said rod as preventing the base assembly from moving from an inner end of said rod to an outer end of said rod (see FIG. 3).

In regard to claim 17, the apparatus as set forth by Sedon et al. is capable of sliding in the direction from the outer end of rod 108 toward the inner end of rod 108 when in the locked position, as there is not a stop, preventing element 168 from sliding within notch 142 in said direction (see FIG. 3).

In regard to claim 33, Sedon et al. show said rod 108 and said opening 124 having matching circular cross-sectional shapes.

In regard to claim 36, Sedon et al. show a first lock 160 member and a second lock member 114, wherein the second lock member holds the first lock member in the locked position (see FIG. 8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Insomuch as understood in light of the 35 USC 112 rejections above, Claims 2-4 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication No. 2004/0026344 to Sedon et al., alone.

Sedon et al. disclose a device comprising all of the limitations of claims 1 and 32, but do not disclose a non-circular, or oval shaped opening. The examiner takes official notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to construct the opening 124 as set forth by Sedon et al. of any shape, including an oval. See *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). The court held that the configuration of the claimed disposable plastic nursing container was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed container was significant. The inclusion of an oval-shaped opening in place of circular opening does not yield a surprising result, and would be an obvious variant to one of ordinary skill in the art.

Allowable Subject Matter

Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

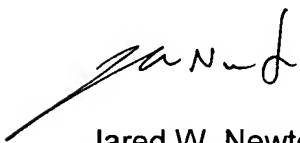
- US Patent No. 6,474,121 to Sakai et al.
- US Patent No. 5,348,167 to Jensen

- US Patent No. 4,718,626 to Thalenfeld et al.
- US Patent No. 4,362,249 to Thalenfeld


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jared W. Newton
April 3, 2006
JWN



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SUPERVISORY PATENT EXAMINER